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09/882,834	06/15/2001	Brian D. Laughlin	38190/208850	9209
67141	7590	12/01/2009		
ALSTON & BIRD, LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER ADE, OGER GARCIA	
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2 UNITED STATES PATENT AND TRADEMARK OFFICE
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5 BEFORE THE BOARD OF PATENT APPEALS
6 AND INTERFERENCES
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9 *Ex parte* BRIAN D. LAUGHLIN and DAVID R. DENNY
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12 Appeal 2008-004045
13 Application 09/882,834
14 Technology Center 3600
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17 Decided: December 1, 2009
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21 *Before:* MURRIEL E. CRAWFORD, ANTON W. FETTING, and BIBHU
22 R. MOHANTY, *Administrative Patent Judges.*
23
24 CRAWFORD, *Administrative Patent Judge.*
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27 DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 9, 11 to 19, 59, and 60. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellants invented an inventory control method and system (Spec. 1).

Claim 1 under appeal reads as follows:

1. A method for managing an inventory of
at least one
product of a supplier that is provided to at
least one customer, wherein the at least one
customer is capable of receiving and shipping out
the at least one product, said method comprising:
creating an open purchase order comprising
an acceptable inventory range bounded by a lower
limit and an upper limit for each product that the
supplier provides to the at least one customer;
storing a supply amount of the at least one
product in a storage unit that is remote from the
supplier and proximate to the customer;
maintaining a product inventory count for
each product representative of the amount of the
product that is maintained in inventory by the at
least one customer, said maintaining comprising:
decreasing the product inventory count as
the at least one customer ships out the respective
product; and
increasing the product inventory count as
the at least one customer receives additional
amounts of the respective product, wherein the at
least one customer receives the additional amounts
from the supply amount stored in the storage unit;
and
monitoring the product inventory count at a
supplier location such that the supplier is capable

of detecting when product inventory counts approach the respective lower limits, wherein the product inventory count approaches the respective lower limit when the product inventory count falls below a notification level greater than the lower limit and between the lower limit and the upper limit, and wherein the supplier location is remote from the customer location.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Shipman	US 5,819,232	Oct. 6, 1998
Cruse	US 2002/0010659 A1	Jan. 24, 2002

The Examiner rejected claims 1 to 9, 11 to 19, 59, and 60 under 35 U.S.C. § 103(a) as being unpatentable over Cruse in view of Shipman.

ISSUE

Have Appellants shown that the Examiner erred in concluding that a person of ordinary skill in the art would have found it obvious from the teachings of the cited references to monitor the product at a supplier location such that the supplier is capable of detecting when product inventory counts approach a lower limit?

FINDINGS OF FACT

The Examiner found that:

Cruse fails to explicitly disclose . . . monitoring the product inventory count at a supplier location such that the supplier is capable of detecting when

product inventory count approach the respective
lower limits

(Ans. 4).

The Examiner found that Shipman discloses the concept of using a
computer model to control a manufacturing or distribution process,
determining an upper and lower bound of a planned inventory by explicitly
accounting for the customer lead time and computing a production schedule
at predetermined intervals to maintain an actual inventory between the upper
and lower bounds of the planned inventory (Ans. 4).

The Examiner concluded:

it would have been obvious to one of ordinary skill
in the art at the time the invention was made to
modify the invention management of Cruse to
include the master production scheduling or
distribution requirements planning taught by
Shipman in order to facilitate the ordering process
and provide better service for customers with
fewer missed or late shipments.

(Ans. 5).

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the
Examiner to establish a factual basis to support the legal conclusion of
obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988).

ANALYSIS

We will not sustain the Examiner's rejection. The Examiner has not
made a finding that either Cruse or Shipman discloses or suggests
monitoring the product at a supplier location such that the supplier is capable

1 of detecting when product inventory counts approach a lower limit. In this
2 regard, the Examiner states that Cruse does not disclose this subject matter.
3 While the Examiner finds that Shipman discloses using a computer model to
4 control a manufacturing or distribution process and determining an upper
5 and lower bound of a planned inventory by explicitly accounting for the
6 customer lead time, the Examiner has not explained how this teaching is a
7 teaching or suggestion of a supplier monitoring a customer's inventory from
8 a second location or of a supplier that can detect when the count *approaches*
9 the lower limit. As such, the Examiner has failed to establish a prima facie
10 case of obviousness.

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12 CONCLUSION OF LAW

13 On the record before us, Appellants have shown error by the
14 Examiner.

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16 DECISION

17 The decision of the Examiner is reversed.

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19 REVERSED

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